

Rockport Board of Appeals  
July 30, 2013  
7:30 P.M.  
Rockport Public Library  
17 School Street, Rockport, MA

- 1) Call to order at 7:30 P.M. Members present Peter Bergholtz (Chairing), Tacy D. San Antonio, Alan Battistelli, Charles W. Christopher, John N. Rees, Lars-Erik Wiberg and Frederick Frithsen. Joyce Fossa and Michael Bace are absent.
- 2) Hearing of David and Emily Coyne for a special permit and/or variance to construct a two-story addition to the rear, and an open one-story covered porch to the front, of their residence on the non-conforming, property at 36 Marmion Way, Rockport.
  - a) Opened 7:30P.M. Closed 7:52 P.M.
  - b) Members of the Board sitting are Peter Bergholtz (Presiding), Charles W. Christopher, Tacy San Antonio, Lars-Erik Wiberg and Frederick Frithsen.
  - c) Materials presented: general plan, site plan, floor plan, elevations and photographs.
  - d) Architect Bruce Gringer, 205B Willow Street, South Hamilton, MA 01982 and owner David Coyne presented their petition.
    - i) The front condo on Marmion Way was purchased about 5 years ago and they purchased the back condo about 2 years ago.
    - ii) They are now full time residents but the house is tight and they need more room.
    - iii) They have gone to the Conservation Commission and been approved since they are ripping up some asphalt for lawn and are beside the streamlet.
  - e) Peter Bergholtz stated that the present coverage is 23.7% and the proposed will be 27.5%.
  - f) Audience participation
    - i) Sharon and Earl Kishida, 34 Marmion Way, spoke in opposition to the petition.
      - (1) The lot coverage will increase to over 27%, which is well in excess of 15% allowed by the Zoning Bylaw.
      - (2) The proposed plan would be less than 3 ft. from the property line where 15 ft. is required.
      - (3) Submitted a letter listing their concerns
  - g) Joseph Abu, 38 Marmion Way, is concerned
    - i) that the addition in the back with the small deck will be too close.
    - ii) that the bedroom window will be too close.
  - h) Architect stated that they are trying to make the house work for a family of five without making it too unpleasant for their neighbors.
    - i) It will have the same number of bedrooms with one more bathroom.
    - ii) It will keep the same roofline.
- 3) Continued hearing of Nenad and Amber Bazdar (prospective purchaser) for a variance and/or special permit to raze a set of existing one-story buildings and build a one and one-half story structure to be used as a pharmacy and retail store on non-conforming property at 124 Main Street, Rockport.
  - a) Opened 7:53 P.M. Closed 8:04 P.M.
  - b) Members of the Board sitting are Alan Battistelli (presiding), Peter Bergholtz, John N. Rees and Lars-Erik Wiberg.
  - c) Materials presented: general plan, site plan, floor plan, elevations and photographs.
  - d) Attorney Robert Visnick, 11 School Street #4, represented the petitioners.

- i) Many residents spoke for this plan in front of the Planning Board and none spoke against it.
  - ii) Suggests that a Special Permit might be appropriate in this case.
  - iii) The Board can use common sense in use of property.
  - iv) Site plan review is unremarkable.
- e) Zenas Seppala, 92 Granite Street, commented that the process through the Planning Board might have been speeded up due to the timing of the Boards meeting.
- 4) Continued hearing of Christian and Marni Jones for a variance and/or special permit to replace the non-conforming dwelling at 3 Clark Avenue, Rockport.
  - a) Opened 8:04 P.M. Closed 8:34 P.M.
  - b) Members of the Board sitting are Charles W. Christopher (presiding), John N. Rees, Alan Battistelli and Frederick Frithsen.
  - c) Materials presented: general plan, site plan, floor plan, elevations and photographs.
  - d) Christian Jones, 3 Clark Avenue, spoke to the petition.
    - i) Made a number of changes to their original plans to satisfy their neighbors.
      - (1) Removed 2X8 ft. section of proposed house.
      - (2) Changed the railing on deck to see through.
    - ii) Existing footprint is less than the 15 ft. from setback.
    - iii) Asking for deck on roof above the living space.
    - iv) Submitted photos of neighbors view.
    - v) Design is minimal with 2 bedrooms and 1 bath.
    - vi) Elevation is 4 ft. lower than Bylaw limits.
    - vii) Deck is a hardship since if they built living space instead to accommodate deck it would block the neighbors view.
  - e) Alan Battistelli asked for the existing grade. The answer submitted by petitioner was 29 ft. 11 ½ inches above existing grade and 35.8 ft. is average grade by surveyor.
  - f) Board feels that a variance for the deck is required as it is a flat roofed house with a portion of the roof used as a deck.
  - g) Audience participation.
    - i) Michael Moran, 9 Clark Avenue, is in support of flat roof with deck rather than another floor of living space.
    - ii) William Joyce, 1 Clark Avenue, had no objections to the plans.
  - h) Alan Battistelli stated that he believed that since the second story deck projects 4 more feet into the setback another variance is required.
  - i) Architect William Rule, 53 Marmion Way, stated:
    - i) It is a tight site with a small house.
    - ii) They don't wish to impede too much on their neighbors.
    - iii) It is hard to argue hardship except that another floor of living space would be a hardship to the neighbors, as it would impede their view.
- 5) Request of Steve Graham for extension of the permit at 5 Doyle Cove Road.
  - a) Court case was settled.
  - b) Asking for extension for one year.
  - c) Decision was settled in May of this year.
  - d) Alan Battistelli moved to extend the decision. Peter Bergholtz seconded and it passed unanimously with Alan Battistelli, Peter Bergholtz, Charles W. Christopher, John N. Rees and Tacy San Antonio voting.
- 6) Discussion of Petitions
  - a) Nenad and Amber Bazdar
    - i) Alan Battistelli felt that a Special Permit would be sufficient.

- ii) Peter Bergholtz felt that a Variance is necessary.
- iii) Alan Battistelli would be appropriate as it is a change in nonconforming use.
- iv) Lars-Erik Wiberg that since it is a residential district a Variance is needed.
- v) Alan Battistelli stated that section D. 2. B. of Bylaws applies.
- vi) Tacy San Antonio stated that according to the bylaws a greenhouse is allowed in a residential district.
- vii) Frederick Frithsen agrees with Alan Battistelli that a Special Permit is appropriate.
- viii) Alan Battistelli moved to approve a Special Permit according to section D. 2. B. of bylaws allowing the change in usage. It was seconded by Peter Bergholtz and passed unanimously with Alan Battistelli, Peter Bergholtz, John N. Rees and Lars-Erik Wiberg voting.
- ix) Peter Bergholtz moved to add condition to the decision. The decision must include site plan review as written. Lars-Erik Wiberg seconded and it passed unanimously with Alan Battistelli, Peter Bergholtz, John N. Rees and Lars-Erik Wiberg voting.
- b) David and Emily Coyne
  - i) Building coverage will be going to the extreme by going up to 27 ½ % coverage.
  - ii) Frederick Frithsen moved to deny the petition without prejudice. Charles W. Christopher seconded.
  - iii) Motion passed unanimously with Peter Bergholtz, Charles W. Christopher, Tacy San Antonio, Lars-Erik Wiberg and Frederick Frithsen voting.
- c) Christian and Marni Jones
  - i) The deck on the roof needs a Variance and the second floor deck goes 4 more feet into the setback.
  - ii) Alan Battistelli moved to approve the plan with the elimination of the second floor deck and the roof deck must not be within the setback. A set of plans meeting these conditions must be submitted. Frederick Frithsen seconded and it passed unanimously with Charles W. Christopher, John N. Rees, Alan Battistelli and Frederick Frithsen.
- 7) Approval of Minutes
  - a) John N. Rees moved to pass June 2013 minutes as submitted.
  - b) Lars-Erik Wiberg seconded.
  - c) Motion passed unanimously with Peter Bergholtz, Tacy D. San Antonio, Alan Battistelli, Charles W. Christopher, John N. Rees, Lars-Erik Wiberg and Frederick Frithsen voting.
- 8) Old Business: Paperless technology, application and instruction simplification will be handled at a workshop to be set up for some time in mid September.
- 9) New Business
  - a) FEMA is holding a workshop on new flood zoning maps but no members volunteered to attend.
  - b) Attorneys Koppelman and Paige sent information on pending cases.
  - c) Members should sit in the audience if they are not sitting on a case.
  - d) All members should acknowledge the receipt of emails.
  - e) Please sign out all folders from Town Hall.
- 10) Next Possible Meeting August 27, 2013
- 11) Motion to adjourn made by Peter Bergholtz and seconded by Frederick Frithsen. Passed unanimously with Peter Bergholtz, Tacy D. San Antonio, Alan Battistelli, Charles W. Christopher, John N. Rees, Lars-Erik Wiberg and Frederick Frithsen voting. Adjournment at 9:34 P.M.